

## Department of Energy

## § 490.5

but not limited to, chase, apprehension, and surveillance of people engaged in or potentially engaged in unlawful activities.

*Lease* means the use and control of a motor vehicle for transportation purposes pursuant to a rental contract or similar arrangement with a term of 120 days or more.

*Light Duty Motor Vehicle* means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. § 7550(7)), having a gross vehicle weight rating of 8,500 pounds or less, before any after-market conversion to alternative fuel operation.

*Model Year* means the period from September 1 of the previous calendar year through August 31.

*Motor Vehicle* means a self-propelled vehicle, other than a non-road vehicle, designed for transporting persons or property on a street or highway.

*Non-road Vehicle* means a vehicle not licensed for on-road use, including such vehicles used principally for industrial, farming or commercial use, for rail transportation, at an airport, or for marine purposes.

*Original Equipment Manufacturer* means a manufacturer that provides the original design and materials for assembly and manufacture of its product.

*Original Equipment Manufacturer Vehicle* means a vehicle engineered, designed, produced and warranted by an Original Equipment Manufacturer.

*Person* means any individual, partnership, corporation, voluntary association, joint stock company, business trust, Governmental entity, or other legal entity in the United States except United States Government entities.

*State* means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

*Used Primarily*, as utilized in the definition of "fleet," means that a majority of a vehicle's total annual miles are accumulated within a covered metropolitan or consolidated metropolitan statistical area.

[61 FR 10653, Mar. 14, 1996, as amended at 64 FR 26829, May 17, 1999]

### § 490.3 Excluded vehicles.

When counting light duty motor vehicles to determine under this part whether a person has a fleet or to calculate alternative fueled vehicle acquisition requirements, the following vehicles are excluded—

(a) Motor vehicles held for lease or rental to the general public, including vehicles that are owned or controlled primarily for the purpose of short-term rental or extended-term leasing, without a driver, pursuant to a contract;

(b) Motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(c) Motor vehicles used for motor vehicle manufacturer product evaluations or tests, including but not limited to, light duty motor vehicles owned or held by a university research department, independent testing laboratory, or other such evaluation facility, solely for the purpose of evaluating the performance of such vehicle for engineering, research and development or quality control reasons;

(d) Law enforcement vehicles;

(e) Emergency motor vehicles;

(f) Motor vehicles acquired and used for purposes that the Secretary of Defense has certified to DOE must be exempt for national security reasons;

(g) Nonroad vehicles; and

(h) Motor vehicles which, when not in use, are normally parked at the personal residences of the individuals that usually operate them, rather than at a central refueling, maintenance, or business location.

### § 490.4 General information inquiries.

DOE responses to inquiries with regard to the provisions of this part that are not filed in compliance with §§ 490.5 or 490.6 of this part constitute general information and the responses provided shall not be binding on DOE.

### § 490.5 Requests for an interpretive ruling.

(a) *Right to file.* Any person who is or may be subject to this part shall have the right to file a request for an interpretive ruling on a question with regard to how the regulations apply to particular facts and circumstances.

(b) *How to file.* A request for an interpretive ruling shall be filed—

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(1) With the Assistant Secretary;  
(2) In an envelope labeled “Request for Interpretive Ruling under 10 CFR Part 490;” and

(3) By messenger or mail at the Office of Energy Efficiency and Renewable Energy, EE-33, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 or at such other address as DOE may provide by notice in the FEDERAL REGISTER.

(c) *Content of request for interpretive ruling.* At a minimum, a request under this section shall—

- (1) Be in writing;
- (2) Be labeled “Request for Interpretive Ruling Under 10 CFR Part 490;”
- (3) Identify the name, address, telephone number, and any designated representative of the person requesting the interpretive ruling;
- (4) State the facts and circumstances relevant to the request;
- (5) Be accompanied by copies of relevant supporting documents, if any;
- (6) Specifically identify the pertinent regulations and the related question on which an interpretive ruling is sought with regard to the relevant facts and circumstances; and
- (7) Contain any arguments in support of the terms of an interpretation the requester is seeking.

(d) *Public comment.* DOE may give public notice of any request for an interpretive ruling and invite public comment.

(e) *Opportunity to respond to public comment.* DOE may provide an opportunity for any person who requested an interpretive ruling to respond to public comments.

(f) *Other sources of information.* DOE may—

- (1) Conduct an investigation of any statement in a request;
- (2) Consider any other source of information in evaluating a request for an interpretive ruling; and
- (3) Rely on previously issued interpretive rulings dealing with the same or a related issue.

(g) *Informal conference.* DOE, on its own initiative, may convene an informal conference with the person requesting an interpretive ruling.

(h) *Effect of an interpretive ruling.* The authority of an interpretive ruling shall be limited to the person request-

ing such ruling and shall depend on the accuracy and completeness of the facts and circumstances on which the interpretive ruling is based. An interpretive ruling by the Assistant Secretary shall be final for DOE.

(i) *Reliance on an interpretive ruling.* No person who obtains an interpretive ruling under this section shall be subject to an enforcement action for civil penalties or criminal fines for actions reasonably taken in reliance thereon, but a person may not act in reliance on an interpretive ruling that is administratively rescinded or modified, judicially invalidated, or its prospective effect is overruled by statute or regulation.

(j) *Denials of requests for an interpretive ruling.* DOE shall deny a request for an interpretive ruling if DOE determines that—

- (1) There is insufficient information upon which to base an interpretive ruling;
- (2) The questions posed should be treated in a general notice of proposed rulemaking under 42 U.S.C. 7191 and 5 U.S.C. 553;
- (3) There is an adequate procedure elsewhere in this part for addressing the question posed such as a petition for exemption; or
- (4) For other good cause.

(k) *Public file.* DOE may file a copy of an interpretive ruling in a public file labeled “Interpretive Rulings Under 10 CFR Part 490” which shall be available during normal business hours for public inspection at the DOE Freedom of Information Reading Room at 1000 Independence Avenue, SW, Washington, DC 20585, or at such other addresses as DOE may announce in a FEDERAL REGISTER notice.

### § 490.6 Petitions for generally applicable rulemaking.

(a) *Right to file.* Pursuant to 42 U.S.C. 7191 and 5 U.S.C. 553(e), any person may file a petition for generally applicable rulemaking under titles III, IV, and V of the Act with the DOE General Counsel.

(b) *How to file.* A petition for generally applicable rulemaking under this section shall be filed by mail or messenger in an envelope addressed to the Office of General Counsel, GC-1,